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July 14, 2003

Margaret Egler, Deputy Chief  
Consumer & Government Affairs Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, D.C. 20554

Re: CG Docket No. 02-386 – *Ex Parte Communication*

Dear Ms. Egler:

Americatel Corporation (“Americatel”)<sup>1</sup> is responding herein to what it believes are certain inaccurate statements contained in the June 19, 2003 *ex parte* presentation made by AT&T, WorldCom and Sprint (collectively the “Joint Petitioners”) in this proceeding.<sup>2</sup> Americatel would like to note, however, that, while it must oppose certain representations made by the Joint Petitioners in their *June 19 Ex Parte*, Americatel continues to discuss billing information issues informally with various employees of the Joint Petitioners in an attempt to find common ground solutions for the billing problems faced by long distance carriers. Additionally, it remains fair to say that all parties are in agreement that carriers have a common law right to receive reasonable compensation for their services.<sup>3</sup> Inherent in this legal right to compensation is an implied right to send invoices to a carrier’s customers.

The Joint Petitioners have urged the Federal Communications Commission (“FCC” or “Commission”) first decide the Joint Petitioners’ request that all carriers be required to meet mandatory minimum Customer Account Record Exchange (“CARE”) requirements<sup>4</sup> before the Commission

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<sup>1</sup> Americatel, a Delaware corporation that is a subsidiary of ENTEL Chile, is a common carrier providing domestic and international telecommunications services. Americatel also operates as an Internet Service Provider (“ISP”). Americatel specializes in serving Hispanic communities throughout the United States, offering presubscribed (1+), dial-around, and prepaid long distance services, as well as private line and other high-speed services to its business customers. The majority of traffic carried by Americatel is dial-around in nature.

<sup>2</sup> See Letter from Michael B. Fingerhut, Sprint Corporation, to Marlene Dortch, FCC, dated June 19, 2003 (“*June 19 Ex Parte*”).

<sup>3</sup> *In re Dry Dock, East Broadway & Battery R. Co.*, 254 N.Y. 305, 172 N.E. 516 (1930).

<sup>4</sup> Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers (filed November 22, 2002).

decides Americatel's requests for mandatory access to Billing Name and Address ("BNA") information from all local exchange carriers ("LECs") and for the imposition of a requirement that all carriers exchange customer billing information under specific parameters developed by the industry through the Ordering and Billing Forum ("OBF").<sup>5</sup> While Americatel continues to oppose the request for bifurcation, Americatel wholeheartedly agrees with the Joint Petitioners' general request that the FCC must take any action necessary to ensure that all carriers can bill their customers for services provided.

Americatel does not intend herein to engage in a point-for-point rebuttal of the *June 19 Ex Parte*. Rather, Americatel simply responds to two incorrect statements made by the Joint Petitioners. The first such statement at issue involves line blocking. The Joint Petitioners note that, in order to reduce the level of uncollectible bills for service, carriers, including dial-around carriers, could "block[] calls from certain line numbers, which have proven to represent unbillable toll."<sup>6</sup>

Americatel submits that blocking dial-around calls from those line numbers that cannot be billed for calls is not a reasonable solution. Americatel, as with most other long distance carriers, blocks originating traffic from line numbers that, after having been successfully invoiced, refuse or otherwise fail to pay Americatel's long distance charges. However, Americatel's instant concern does not lie with customers who do not pay their bills for service. Rather, the concern remains with those customers to whom Americatel cannot render a bill for service because Americatel cannot identify which LEC is serving a specific customer and/or when Americatel can identify the correct serving LEC, that carrier will not provide Americatel with either Billing & Collection ("B&C") or Billing Name and Address ("BNA") service.

It would be ludicrous for Americatel to offend its good customers who regularly choose Americatel's 1010-123 service to place their domestic and international long distance calls by blocking access thereto simply because a portion of the telecommunications industry refuse to cooperate with Americatel by furnishing the information necessary for Americatel to bill for its services. Americatel regularly collects more than 91% of its charges for dial-around calls when it can bill for those calls. Therefore, the odds are greater than nine-to-one that a customer making dial-around calls over Americatel's network will pay for those calls—in the event that Americatel can cause invoices to be sent to such customer. Under these facts, it would not make any business sense for Americatel to irritate its customer base by blocking access to its 1010-123 service whenever those customers have switched their local service to a competitive local exchange carrier ("CLEC"), the type of carrier generally involved in Americatel's billing difficulties.

The second statement in the *June 19 Ex Parte* to which Americatel objects is the suggestion that Americatel's billing problems could be largely solved were Americatel to avail itself to existing industry databases, which identify the LEC that serves a specific telephone number. The Joint Petitioners imply that use of the Local Exchange Carrier Routing Guide ("LERG"), which provides

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<sup>5</sup> Americatel's Petition for Declaratory Ruling (filed September 5, 2002).

<sup>6</sup> *June 19 Ex Parte*, at 3. The Joint Petitioners do, however, note that blocking customer lines is "expensive for carriers and disruptive to customers." *Id.*

information at the NPA-NXX level, and the number portability database operated by the Number Portability Administration Center (“NPAC”), which provides information at the Automatic Number Identification (“ANI”) level for ported and pooled numbers, would solve most of Americatele’s problems. The implications of these statements are: (1) that Americatele does not currently use those information sources, and (2), if it did, the bulk of Americatele’s billing problems for dial-around traffic would be solved. These implications, if intended by the Joint Petitioners, or inferences, if drawn by the Commission, are wrong.

Americatele already subscribes to access to both the LERG and the NPAC databases. Those data sources provide information linking a specific ANI with the serving LEC only in those instances where the serving LEC provides its own local switching. Neither database, as presently constituted, can identify the LEC that serves a specific ANI when such LEC is obtaining its local switching from an underlying incumbent LEC, which occurs whenever the serving LEC is reselling the incumbent LEC’s local service or purchasing switching from the incumbent LEC as an Unbundled Network Element (“UNE”). For example, assume that 305-555-2468 is served by ABC Telephone and that ABC Telephone is providing that service utilizing UNE Switching obtained from BellSouth. In this instance, both the LERG and the NPAC database would likely identify BellSouth as the carrier for 305-555-2468. However, as all are well aware, BellSouth is not the serving carrier in this example and, as a result thereof, if Americatele were to send dial-around call records for 305-555-2468 to BellSouth, BellSouth’s systems would simply return those records to Americatele with a Return Code 50 (“RC 50”) message. Accordingly, both databases are insufficient to permit a dial-around carrier to bill under these fairly commonly found facts.

It has been Americatele’s experience that approximately 80% of all customer accounts associated with an RC 50 are served by switchless CLECs. Therefore, for such customers, neither the LERG nor the NPAC database provide Americatele with any useful information for billing purposes. Unless the Commission were to abolish both resale and UNE switching, a completely irrational result that would simply cede the entire wireline market to the Bell Operating Companies (“BOCs”) and make a complete mockery of Congress’ intent for competition in all markets, dial-around carriers must have access to line-specific information to bill many of its customers. More important, for viable dial-around competition to continue to exist, those carriers must be able to bill for their services.

Americatele continues to support the Joint Petitioners’ request that all carriers be required to provide mandatory minimum CARE information to other carriers. Under the Joint Petitioners’ proposal, the CARE information template would include a field for the serving LEC’s Operating Company Number (“OCN”). However, it has been Americatele’s experience that the OCN field is often left blank or when populated, is frequently erroneous. Also, it is rare that the CARE information includes an OCN for a switchless CLEC. Therefore, Americatele must conclude that, while the provision of mandatory minimum CARE information is a step forward for presubscribed carriers, it is far from adequate for dial-around carriers.

Accordingly, Americatele submits that, for dial-around competition to remain viable, carriers providing those services must be able to bill their customers for dial-around calls. For such billing to occur, dial-around carriers must have access to the identity of the serving LEC, which, in turn, must either provide B&C or BNA services. Moreover, if the FCC were to bifurcate the issues in this

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proceeding, deciding those raised by the Joint Petitioners first and leaving Americatel's for some unspecified time in the future, the dial-around market may well be severely damaged and a source of long distance competition diminished. Americatel, therefore, urges the FCC to decide both sets of issues jointly and promptly.

If you have any questions about this letter or Americatel's position in this proceeding, please do not hesitate to call.

Very truly yours,

/s/

Robert H. Jackson